

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

MARK CHRISTIANS,

Plaintiff,

vs.

DARRIN YOUNG, in his individual capacity;
DAN SULLIVAN, in his official capacity;
TROY PONTO, Deputy Warden SDSP, individual and official capacity; JESSICA COOK, Associate Warden SDSP/Jameson, individual and official capacity; BRENT FLUKE, Warden MDSP, individual and official capacity; REBECCA SCHIEFFER, Associate Warden MDSP, individual and official capacity; ALEX REYES, Associate Warden MDSP, individual and official capacity; CODY HANSON, Unit Manager Jameson, individual and official capacity; SETH HUGHES, Unit Manager Jameson, individual and official capacity; NANCY CHRISTENSEN, Unit Manager MDSP, individual and official capacity; DEREK EKEREN, Unit Coordinator Jameson, individual and official capacity; DEB EILERS, Unit Coordinator MDSP, individual and official capacity; LAURIE STRATMAN, Unit Coordinator MDSP, individual and official capacity; JULIE STEVENS, Case Manager MDSP, individual and official capacity; CRAIG MOUSEL, Property Officer, SDSP, individual and official capacity; MIKE LEIDHOLT, individual capacity; KELLIE WASKO, official capacity, PECHOUS, Unit Coordinator, individual and official capacity; GENIE BIRCH, Program Manager, individual and official capacity; GREASMAN, Correctional Officer, individual and official capacity; DAWN ALUMBAUGH, Correctional Officer, individual and official capacity; MARJAMA,

4:20-CV-04083-LLP

ORDER REGARDING PROPOSED JURY
INSTRUCTIONS AND INMATE
TESTIMONY

<p>Correctional Officer, individual and official capacity; WINTERS, Correctional Officer, individual and official capacity; PADILLA, Correctional Officer, individual and official capacity; MULLINS, Correctional Officer, individual and official capacity; HULSCHER, Correctional Officer, individual and official capacity; DREISKE, Former Deputy Warden, individual capacity; BECKER, Lieutenant, individual and official capacity; HETTIG, Lieutenant, individual and official capacity; SORENSON, Lieutenant, individual and official capacity; PERRET, Lieutenant, individual and official capacity,</p>	
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Defendants.

Plaintiff, Mark Christians, filed this pro se civil rights lawsuit under 42 U.S.C. § 1983. A jury trial is scheduled to begin on July 15, 2025. Docs. 382, 437. The Court has reviewed the parties' proposed jury instructions and other pretrial submissions and determined that further pretrial submissions are necessary. *See generally* Docs. 423, 424, 425, 426, 427, 429, 431, 432, 434.

I. Proposed Jury Instructions

Christians' claims against twenty-seven (27) defendants survived summary judgment. Doc. 147 at 23–27, 30–31, 43; Doc. 345 at 12–23, 34. At trial, Christians must demonstrate that each defendant was individually involved in violating his Eighth Amendment rights before that defendant can be held liable under § 1983. *Heartland Acad Cmty Church v. Waddle*, 595 F.3d 798, 805–06 (8th Cir. 2010); *see also White v Jackson*, 865 F.3d 1064, 1076 (8th Cir. 2017) (“[A] plaintiff must be able to prove ‘that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.’” (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009))). “Liability for damages for a federal constitutional tort is personal, so

each defendant's conduct must be individually assessed." *Wilson v Northcutt*, 441 F.3d 586, 591 (8th Cir. 2006) (citing *Doran v Eckold*, 409 F.3d 958, 969 (8th Cir. 2005) (en banc)). The parties' proposed jury instructions and Plaintiff's proposed special verdict form do not clearly direct the jury to consider separately Christians' claims against each defendant. *See, e.g.*, Doc. 426 at 11, 12, 16, 19–20; Doc. 434 at 33, 34, 46–48. Thus, the parties are directed to submit revised proposed jury instructions, as well as a proposed special verdict form, that direct the jury to consider separately Christians' claims against each defendant. The revised proposed jury instructions and proposed special verdict form must be filed on or before **July 2, 2025**.

Objections to the revised proposed jury instructions and proposed special verdict form must be filed on or before **noon on Monday, July 7, 2025**.

II. Inmate Testimony

Plaintiff's witness list is due on June 30, 2025. Doc. 376 ¶ 2. If Plaintiff¹ intends to present testimony from a witness who is confined in jail or prison, Plaintiff must **promptly** file a petition for writ of corpus *ad testificandum* to permit the Warden of the institution at which the witness is confined and the United States Marshal Service to arrange for the transport of the witness. Plaintiff's counsel must file as soon as is reasonably practical a petition for writ of corpus *ad testificandum* to secure Plaintiff's attendance throughout the duration of the trial.

III. Conclusion

Accordingly, it is ORDERED:

1. That the parties must submit revised proposed jury instructions, as well as a proposed special verdict form, that direct the jury to consider separately Christians' claims against each defendant on or before **July 2, 2025**. Objections

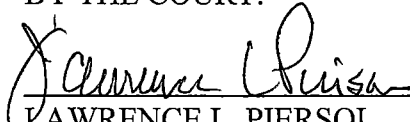
¹ According to Defendants' witness list, Defendants do not anticipate presenting testimony from any witness who is confined in jail or prison. Doc. 424. If that changes, Defendants must comply with this Order.

to the revised proposed jury instructions and proposed special verdict form must be filed on or before **noon on Monday, July 7, 2025**.

2. That any party intending to present testimony from a witness who is confined in jail or prison must **promptly** file a petition for writ of corpus *ad testificandum* to permit the Warden of the institution at which the witness is confined and the United States Marshal Service to arrange for the transport of the witness.
3. That Plaintiff's counsel, as soon as is reasonably practical, must file a petition for writ of habeas corpus *ad testificandum* to secure Plaintiff's attendance throughout the duration of the trial.

DATED this 26th day of June, 2025.

BY THE COURT:



LAWRENCE L. PIERSOL
United States District Judge